

EXTENDING JURISDICTION OF THE COURT OF CLAIMS.

APRIL 6, 1904.—Ordered to be printed.

Mr. WARREN, from the Committee on Claims, submitted the following

REPORT.

[To accompany S. 4409.]

The Committee on Claims, to whom was referred the bill (S. 4409) to extend the jurisdiction of the Court of Claims, have carefully considered the same and now beg to report it back to the Senate with recommendation that it do pass without amendment.

The bill proposes to confer upon the Court of Claims the same power to investigate and adjudicate the claim of the Illinois Steel Company, as assignee, for excess of duties paid on steel blooms imported during the years 1881 and 1882, as was given by an act of Congress approved on the 9th day of January, 1903 (32 Stat. L., p. 764), to 28 importers specifically named in that act. At the time those importations were made there was a well-grounded fear on the part of such importers that protest against the duty actually imposed would call forth from the Secretary of the Treasury an increase of the rate of duty to a point which would be absolutely prohibitive, because the refund of such greater unlawful excess would be delayed for years by litigation.

Your committee's report recommending the passage of the act of January 9, 1903, is made a part of this report, as follows:

[Senate Report No. 391, Fifty-seventh Congress, first session.]

The Committee on Claims, to whom was referred the bill (S. 3083) providing for the adjudication of certain claims by the Court of Claims, having had the same under consideration, report the same back to the Senate and recommend that the bill do pass.

There have been numerous favorable reports made upon bills similar to this, among which is the following, submitted to the last Congress:

[Senate Report No. 1194, Fifty-sixth Congress, first session.]

The Committee on Claims, to whom was referred the bill (S. 2520) providing for the adjudicating of certain claims by the Court of Claims, having had the same under consideration, submit the following:

Several favorable reports have heretofore been made on similar bills in the Senate and House of Representatives, and your committee readopt as their report the report made by this committee during the Fifty-fourth Congress, second session, and recommend the passage of the bill.

The report is as follows:

The Committee on Claims, having had under consideration the bill (S. 3539) granting jurisdiction to the Court of Claims, notwithstanding any statutory bar, of the claim of J. F. Bailey & Co. and others, heretofore referred to them by the Senate, beg leave to report:

Heretofore, on March 20, 1888, February 15, 1890, and May 20, 1896, favorable reports were made by the House Committee on Claims on bills similar in all respects to the one now reported, while on the other hand an unfavorable report was made on a like bill by your committee March 19, 1890. This adverse report was based on the failure of claimants to protest, appeal, and bring suit as provided by section 2931 of the Revised Statutes; but from sworn statements of facts presented to your committee since this adverse report was made, it appears that claimants were deterred, except in one case, from complying with this provision of the statute through fear of an increase of the rate of duty from 45 per cent ad valorem to 2½ cents a pound, and that in this one case, that of H. E. Collins & Co., the increase was actually made after payment of the former duty.

In view of this showing, your committee are of the opinion that the failure to comply with the requirements of the statute in the matter of protest, appeal, and suit should not be regarded as sufficient to bar or estop these claimants from asserting their claims for relief; and your committee beg to report further that, having carefully examined House Report No. 2057, first session of the present Congress, they adopt it as their own.

Said report is as follows:

"The claimants imported, in the years 1879, 1880, 1881, and 1882, steel blooms, upon which steel blooms the customs officials and the Treasury Department exacted and compelled the payment of a duty at the rate of 45 per cent ad valorem.

"The claimants objected to this rate of duty, but the collector of customs decided that that was the correct rate, and refused to allow the steel blooms to be taken by or delivered to the owners until that rate, viz, 45 per cent ad valorem, had been paid. The Treasury Department sustained the collector of customs in this decision, and the claimants were compelled to pay a duty of 45 per cent on the steel blooms that they imported, when the correct and legal duty was only 30 per cent ad valorem.

"In 1882 a suit was brought in the United States circuit court for the southern district of New York by R. F. Downing et al. against William H. Robertson, collector of the port of New York, for the return of the excessive rate of duty exacted by the collector of customs at that port on certain steel blooms imported by them, viz, a duty of 45 per cent ad valorem instead of 30 per cent. The case was tried and a verdict obtained against the Government for the excessive rate of duty exacted, and it was then judicially determined that the correct rate of duty on steel blooms was 30 per cent ad valorem and not 45 per cent. This case was appealed by the Government to the United States Supreme Court, October term, 1884, No. 853, and on the 19th of January, 1885, the appeal of the Government was dismissed by the Supreme Court.

"The Treasury Department after this (in February, 1885) instructed the collector of the port to collect, in conformity with this decision, only 30 per cent ad valorem instead of what the collector had been exacting, viz, 45 per cent.

"In the act of March 3, 1883, steel blooms are specifically named and a rate of 45 per cent is stated as the rate of duty, but prior thereto the correct rate of duty was as the claimants claimed, viz, 30 per cent, and as the courts determined, and not at the rate exacted by the collector of customs and enforced by the Treasury Department.

"The bill gives the Court of Claims jurisdiction of these claims, provided that the petitions are filed within six months and that the adjudication shall only be for such sums as were paid in excess of the legal duty.

"The bill seeks merely to send to the Court of Claims for adjudication certain claims alleged by parties to be due them, and the committee believe it but just and fair they have the privilege of going to the courts to settle these contests, and they beg to report such bill back with the recommendation that it do pass."